

from the mineral property burdened thereby. The following examples illustrate the provisions of this subdivision:

Example 1. In 1956, A leases oil bearing lands to B, receiving \$200,000 as a bonus and reserving a royalty of one-eighth of the proceeds of all oil produced and sold. It is estimated at the time the lease is entered into that there are 1,000,000 barrels of oil recoverable. In 1956, B produces and sells 100,000 barrels for \$240,000. In computing his *gross income from the property* for the year 1956, B will exclude \$30,000 ($\frac{1}{8}$ of \$240,000), the royalty paid to A, and \$20,000 (100,000 bbls. sold/1,000,000 bbls. estimated to be available \times \$200,000 bonus), the portion of the bonus allocable to the oil produced and sold during the year. However, in computing B's taxable income under section 63, the \$20,000 attributable to the bonus payment shall not be either excluded or deducted from B's gross income computed under section 61. (See paragraph (a)(3) of § 1.612-3.)

Example 2. In 1971, C leases to D oil bearing lands estimated to contain 1,000,000 barrels of oil, reserving a royalty of one-eighth of the proceeds of all oil produced and sold and a \$500,000 production payment payable out of 50 percent of the first oil produced and sold attributable to the seven-eighths operating interest. In 1972, D produces and sells 100,000 barrels of oil. In computing his *gross income from the property* for the year 1972, D will exclude, in addition to the royalty paid to C, \$50,000 (100,000 bbls. sold/1,000,000 bbls. estimated to be available \times \$500,000 treated under section 636(c) as a bonus), the portion of the production payment allocable to the oil produced and sold during the taxable year. However, in computing D's taxable income under section 63, the \$50,000 attributable to the retained production payment shall not be either excluded or deducted from D's gross income computed under section 61.

(iii) If advanced royalties have been paid in respect of the property in any taxable year, the amount excluded from *gross income from the property* of the payor for the current taxable year on account of such payment, shall be an amount equal to the deduction for such taxable year taken on account of such payment pursuant to paragraph (b)(3) of § 1.612-3.

Example. If B in example 2 in paragraph (b)(4) of § 1.612-3, elects to deduct in 1956 the \$10,000 paid to A in that year, he must exclude the same amount from *gross income from the property* in 1956; however, if B elects to defer the deduction until 1957 when he mined and sold the mineral, he must exclude

the \$10,000 from *gross income from the property* in 1957.

[T.D. 6500, 25 FR 11737, Nov. 26, 1960, as amended by T.D. 6841, 30 FR 9306, July 27, 1965; T.D. 7170, 37 FR 5374, Mar. 15, 1972; T.D. 7261, 38 FR 5467, Mar. 1, 1973; T.D. 7487, 42 FR 24263, May 13, 1977]

§ 1.613-3 Gross income from the property.

Oil and gas wells. In the case of oil and gas wells, *gross income from the property*, as used in section 613(c)(1), means the amount for which the taxpayer sells the oil or gas in the immediate vicinity of the well. If the oil or gas is not sold on the premises but is manufactured or converted into a refined product prior to sale, or is transported from the premises prior to sale, the gross income from the property shall be assumed to be equivalent to the representative market or filed price of the oil or gas before conversion or transportation.

[T.D. 6500, 25 FR 11737, Nov. 26, 1960, as amended by T.D. 6965, 33 FR 10692, July 26, 1968; T.D. 8474, 58 FR 25557, Apr. 27, 1993]

§ 1.613-4 Gross income from the property in the case of minerals other than oil and gas.

(a) *In general.* The rules contained in this section are applicable to the determination of gross income from the property in the case of minerals other than oil and gas and the rules contained in § 1.613-3 are not applicable to such determination, notwithstanding provisions to the contrary in § 1.613-3. The term *gross income from the property*, as used in section 613(c)(1), means, in the case of a mineral property other than an oil or gas property, gross income from mining. *Gross income from mining* is that amount of income which is attributable to the extraction of the ores or minerals from the ground and the application of mining processes, including mining transportation. For the purpose of this section, *ordinary treatment processes* (applicable to the taxable years beginning before January 1, 1961) and *treatment processes considered as mining* (applicable to the taxable years beginning after December 31, 1960) will be referred to as *mining processes*. Processes, including packaging